

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36028]

Kanawha River Railroad, L.L.C.—Lease Exemption Containing Interchange

Commitment—Norfolk Southern Railway Company

Kanawha River Railroad, L.L.C. (KNWA), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease and operate nine rail segments totaling 308.85 miles from Norfolk Southern Railway Company (NSR). These line segments run (1) between mileposts V 382.0 at Maben, W. Va., and V 435.0 at DB (Deepwater Bridge), W. Va.; (2) between milepost RR 7.0 at Refugee, Ohio, and milepost RR 116.5 at Hobson Yard, Ohio; (3) between milepost WV 125.6 at Conco, Ohio and milepost WV 253.4 at Cornelia, W. Va.; (4) between milepost VC 0.0 at Vaco Junction, W. Va., and milepost VC 0.84 at Deepwater W. Va.; (5) between Hitop RT at milepost TP 0.0 at Charleston, W. Va., and the end of the track at milepost TP 1.0; (6) between Jones IT at milepost JT 0.0 at Jones, W. Va., and the end of the track at milepost JT 1.3; (7) between milepost VG 0.0 at Virwest, W. Va., and milepost VG 12.1 at Bolt, W. Va., (8) between milepost MY 0.0 at Milam, W. Va., and the end of the track at MY 1.01; and (9) between milepost PE 0.0 at Putt, W. Va., and milepost PE 2.3 at Putt End Branch, W. Va.¹

¹ The notice of exemption was initially filed on June 28, 2016, but was resubmitted with corrections on July 1, 2016. Therefore July 1, 2016, is the official filing date and the basis for all dates in this notice.

This transaction is related to a concurrently filed verified notice of exemption in Watco Holdings, Inc.—Continuance in Control Exemption—Kanawha River Railroad L.L.C., Docket No. FD 36029, wherein Watco Holdings, Inc. seeks Board authority to continue in control of KNEWA upon KNEWA's becoming a Class III rail carrier.

KNEWA plans to lease and increase operations on the subject rail lines in Ohio and West Virginia (189 miles of the subject lines are in active service; the remainder of the track is idled or has been taken out of service by NSR).² KNEWA intends to return the entire main line component of the rail lines to daily operation. NSR suspended operations on part of the rail lines in Ohio in early 2016 due to declining rail traffic volumes, and rerouted traffic on other routes.

KNEWA has certified that its projected annual revenues that will result from the proposed transaction will not result in KNEWA becoming a Class II or Class I rail carrier. KNEWA has further certified that its projected annual rail freight revenues, including the lines to be operated pursuant to this notice, will exceed \$5 million. Accordingly, as required by 49 C.F.R. § 1150.42(e), KNEWA has certified that on May 18 and 19, 2016, a

² KNEWA has filed the lease agreement under seal pursuant to 49 C.F.R. § 1150.43(h)(1)(ii). On July 7, 2016, Dow Chemical Company (Dow) filed a motion for access to the confidential lease documents, pursuant to 49 C.F.R. § 1150.43(h)(2), and a motion for protective order. On July 8, 2016, M&G Polymers USA, LLC (M&G) filed similar motions. Both Dow and M&G stated that KNEWA had agreed to grant such access once a protective order was in place. On July 8, 2016, the Board granted M&G's motion for protective order and motion for access to confidential documents. On July 11, 2016, the Board granted Dow's motion for access to confidential documents.

copy of the verified notice was posted at the workplaces of the employees on the line and served on the national offices of all labor unions with employees on the line.

The transaction may be consummated on or after July 31, 2016, the effective date of the exemption (30 days after the supplemental notice of exemption was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than July 22, 2016 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36028, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 920, Chicago, IL 60606, and Karl Morell, Karl Morell & Associates, Suite 225, 655 Fifteenth St., N.W., Washington, DC 20005.

According to KNWA, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

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Decided: July 12, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.